REMARKS/ARGUMENTS

Reconsideration of the application is requested.

A Claim for Priority together with a certified copy of Austrian Patent Application A 149/2001, filed January 30, 2001, were filed in the instant application on October 6, 2003. However, Item 12 of the Office Action Summary of neither the latest Office Action nor any previous Office Action appear to acknowledge receipt of those papers. An acknowledgement by the Examiner of receipt of the priority document and Claim for Priority under 35 U.S.C. § 119 would be appreciated.

This matter was raised in the Amendment filed September 12, 2007 but has not been corrected or mentioned in the Office Action dated November 29, 2007. The Examiner is requested to inform Applicant why the priority papers have not been acknowledged.

Claims 1-5, 8-10, 19-20, 22-24 and 28-36 are now in the application and are subject to examination. Claim 1 has been amended. Claims 13-18, 21 and 25-27 have been cancelled and claims 28-36 have been added herein. The total number of claims has not increased.

In "Claim Rejections – 35 USC § 112" on page 2 of the above-identified Office Action, claim 27 has been rejected as being indefinite under 35 U.S.C. § 112, second paragraph. Claim 27 has been canceled without replacement.

The Examiner has also commented that the fluidic media are not positively recited. However, it is noted that the fluidic media are workpieces in claim 1 and are therefore properly inferentially recited. However, new claim 36 positively recites liquid media.

In "Claim Rejections – 35 USC § 102" on pages 2-4 of the Office Action, claims 1, 2, 4, 5, 8-10, 13, 14, 16, 17 and 19-24 have been rejected as being fully anticipated by U.S. Patent No. 6,497,720 to Augustine et al. (hereinafter Augustine) under 35 U.S.C. § 102(e).

In "Claim Rejections – 35 USC § 103" on page 4 of the Office Action, claim 3 has been rejected as being obvious over Augustine under 35 U.S.C. § 103(a).

The rejection has been noted and the claims have been amended in an effort to even more clearly define the invention of the instant application.

Before discussing the prior art in detail, it is believed that a brief review of the invention as claimed, would be helpful. Claim 1 calls for, *inter alia*, a device for releasing chemical/physical parameters, the device comprising:

> a flexible applicator sized and configured to wrap and/or cover an entire body or body parts, said applicator being made of flexible material and having at least two layers defining a space therebetween with at least two closed chambers or channels laterally adjacent one another, each chamber or channel being independently and individually fillable with fluidic media for independently and individually releasing the chemical/physical parameters;

one of said layers of said applicator being configured to face the body or body parts and being provided with openings for releasing liquid media directly to the body or body parts;

a control device connected to said applicator for controlling functional parameters, including a flow volume, a temperature, and a pressure, of the medium in said space; and

sensors connected to said control device, the media in the respective chambers or channels being controlled by said control device in dependence on the body parameters detected by said sensors.

Thus, the first limitation of claim 1 has been amended substantially in accordance with the suggestion made by the Examiner in point 2 of the Response to Arguments on page 5 of the Office Action, so that the first limitation of claim 1 now calls for "a flexible applicator sized and configured to wrap and/or cover an entire body or body parts".

Furthermore, in order to define the invention more clearly, the second limitation of claim 1 has been clarified and in view of the repeated citation of the Augustine reference, the words "fluidic media" have been replaced with the words "liquid media" and the word "directly" has been introduced. The term "liquid" finds its support between page 5, line 23 and page 6, line 2 of the Specification of the instant application, in which the definition of the physical/chemical parameters is provided.

New claim 36 is almost identical to claim 1, except for claiming liquid media.

The limitations of several of the dependent claims have been rearranged to be in a

more logical order due to the previous amendments of the claims. Claims 28-35 are substantially equivalent to previous claims 16, 11-15 and 17-18, respectively. However, the word "further" has been introduced into new claims 28 to 35. This limitation finds support in the original claims, Fig. 2, reference number 7 and page 12, line 5 to page 13, line 10, and page 22, line 25 to page 23, line 6 of the Specification of the instant application.

It is noted that the limitation added to claim 1 in the Amendment filed September 12, 2007, namely "one of said layers being configured to face the body or body parts and being provided with openings for releasing fluidic media to the body or body parts" has not been mentioned by the Examiner in the otherwise very detailed repetition of the limitations of claim 1 on page 3 of the Office Action. The "openings," for example, are not mentioned at all.

It therefore appears as though the Examiner has considered the previous wording of claim 1 as recited in the Amendment dated October 19, 2006, but not the more current wording of claim 1. For this reason, the Examiner is urged to reconsider the arguments presented in the Amendment filed September 12, 2007.

Nevertheless, those arguments will be briefly outlined below:

Openings for releasing liquid media (previously fluidic media) directly to the body or body parts as recited in claim 1, which are formed in one of the layers of the applicator facing the body or body parts, are not disclosed in Augustine.

Regarding Figs. 11 and 13 (column 10, lines 11-15), Augustine mentions that the bladder 110 (made of woven fabric which is coated or not - see column 9, lines 55-58) may be formed of means for discharging air which can include migration of air through a controlled weave porosity of fabric, vents or a duct (also see the mesh 86 in Fig. 8 on the upper side of the support apparatus). However, then the apparatus is reduced to the air cooling of a body lying thereon and merely i.e. gaseous media can be discharged. It is neither disclosed in nor rendered obvious by Augustine that fluid media can be released directly to the body or parts thereof. It is especially neither disclosed in nor rendered obvious by Augustine that the release is provided for liquid media. Therefore, claim 1 defines new and non-obvious subject-matter, which is sufficiently distinguished from Augustine.

With regard to point 1 of the Response to Arguments of the Examiner on page 5 of the Office Action, it is respectfully believed that the Examiner has incorrectly identified reference numeral 95 in Fig. 9 of Augustine as "for releasing fluidic media." In fact, as is clearly stated in Augustine, reference numeral 95 is an air jet slot for controlling the air plenum 93. This means that the slot is firstly not provided for releasing liquid media and secondly that it is at a distance from the body surface due to the plenum 93 and can, thus, not have any direct contact with the body being treated.

In summary, Augustine fails to disclose an applicator being able to be wrapped around a body or even around a part of a body. Augustine further fails to teach

openings which release liquid media directly onto the body or parts thereof. These limitations are new and non-obvious over the cited Augustine reference and should be sufficient to acknowledge patentability of the present subject matter of claims 1 and 36.

Clearly, Augustine does not show:

> a flexible applicator sized and configured to wrap and/or cover an entire body or body parts, and
>
> one layer of the applicator being configured to face the body or body parts and being provided with openings for releasing liquid media directly to the body or body parts,

as recited in claims 1 and 36 of the instant application.

It is accordingly believed to be clear that none of the references, whether taken alone or in any combination, either show or suggest the features of claims 1 and 36. Claims 1 and 36 are, therefore, believed to be patentable over the art. The dependent claims are believed to be patentable as well because they all are ultimately dependent on claim 1.

In view of the foregoing, reconsideration and allowance of claims 1-5, 8-10, 19-20, 22-24 and 28-36 are solicited.

In the event the Examiner should still find any of the claims to be unpatentable, counsel would appreciate receiving a telephone call so that, if possible, patentable language can be worked out.

Appl. No. 10/629,926
Amdt. dated 3/28/08
Reply to Office action of 11/29/07

Petition for extension is herewith made. The extension fee for response within a period of one month pursuant to Section 1.136(a) in the amount of $60.00 in accordance with Section 1.17 is enclosed herewith.

Please charge any other fees that might be due with respect to Sections 1.16 and 1.17 to Deposit Account Number 12-1099 of Lerner Greenberg Stemer LLP.

Respectfully submitted,

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